

REMARKS/ARGUMENTS

Applicant has amended claims 1, 2, 29, and 30 of the claims in issue considered by the Examiner in the Final Office Action dated October 12, 2010. Upon entry of the response and of the amendments, claims 1-25 and 27-30 are pending for reconsideration by the Examiner.

Entry of this Response is proper since no additional search is required and the remarks are solely directed to the positions taken by the Examiner as to the meaning and proper interpretation of the claims of record and the cited Adler reference.

Applicant has amended Claims 1, 2, 29, and 30 to better define the term ***“tangential or tangent,”*** correspondingly, to better define the direction of the tangential force applied against the mould by button actuating.

As for the Examiner’s notes given on Page 30 in the current Office Acton that *“...several of the arguments for Claim 1 are actually not found in Claim 29...”*, the Examiner will appreciate that in Claim 29 Applicant claims a moulded structure mounted to the button of the **conventional** mouse; therefore, the limitations of Claim 1 concerning to the form and structure of the casing and buttons are irrelevant in Claim 29.

Applicant believes that Claim 29 contents all limitations of Claim 1 concerning to the moulded structure and manner of mouse operating, which are given in the same wording used in Claim 1.

The Examiner has repeatedly rejected Claims 1-13, 24 and 27 -30 under 35 U.S.C. § 103(a) as being obvious by Adler (US Patent 6,256,015 B1). Applicant respectfully traverses the rejections.

Applicant continues to assert that claims 1, 2, and 29 were patentable over the cited Adler reference for the reason that the Examiner has **not** properly applied the legal requirements for the rejections under 35 U.S.C. § 103.

In the current Office Action, on Page 27 the Examiner states:

*“...examiner can indeed actuate a mouse button by gently stroking ... with a tangential movement to the surface of a button. ... a tangential force (reading this as the **mathematical term, which is one point along a curved surface**) can be applied by touching and using a down-forward action at this tangential point, and as a result, the button can be actuated. This force, in examiner's opinion, is a gentle one, as claimed.”* (Emphases added)

The dictionary definition for the term **“tangent”** was once given by Applicant in the Response dated January 18, 2010, however, as seen, is freely interpreted by the Examiner in the current Office Action, it is respectfully submitted.

Therefore, the Examiner will appreciate the dictionary definition for the term **“tangent,”** repeatedly, and respectfully submitted once again as follows:

“tangent **1** (geometry) straight line that touches the outside of a curve but does not cross it. **2** (mathematics) (in right-angled triangle) ratio of the sides opposite and adjacent to a given angle” (please see the Oxford Dictionary)

When reading correctly the dictionary definition given for the term **“tangent”**, the Examiner will appreciate that by a **tangential** fingertip movement **directed along a tangent** (reading this as the geometrical term, which is a straight **line**, which touches the upper surface of the button at **one** point thereof, but does **not** cross any curve of the convex-convex surface of the button,) i.e. when moving it against **nothing**, a force needed for button actuating **cannot** be **physically** applied to the button; and that a force applied to Adler’s cover, which is attached to the casing, **cannot physically actuate** the button.

In contrast to Adler, by the **same tangential movement** of the fingertip, when placed into Applicant’s **mould**, the button will be actuated by the tangential force applied to the button through the mould which is attached to the button and **fitted tightly** around the fingertip.

Consequently, when reading correctly the dictionary definition given for the term **“tangent,”** the Examiner will appreciate that Adler does **not** teach, suggest, or motivate any structure, which could allow button actuating by a **tangential** fingertip movement directed along the straight line that touches the upper surface of the button but does not cross it.

Second, contrary to the Examiner’s statements given several times in the current Office Action, there is **no reasonable** expectation of success in actuating the button of the conventional mouse, which is taught in the Adler reference, by the **tangential** fingertip movement directed along a straight line, which touches

the upper surface of the button but does not cross it, because this fingertip **movement against nothing will affect nothing.**

Finally, Adler's reference does **not** teach, suggest, or motivate a **structural limitation**, like a mould attached to the button, which could provide one of the fundamental functions of the mouse, namely, button actuating **in the way claimed by Applicant.**

With respect to the MPEP §2143 Applicant believes that **none** of the criteria to establish *a prima facie* case of obviousness is met by the Examiner in the rejections and cited Adler's reference; therefore, the Examiner's rejections of Claims 1, 2, and 29, it is respectfully submitted, are improper.

Further, in a view of the MPEP §2143.01 (IV) given as follows:

*"Rejections on obviousness **cannot** be sustained by **mere** conclusory statements; instead, there **must** be some articulated reasoning with some rational underpinning to support the **legal** conclusion of obviousness."* KSR, 550 U.S. at ___, 82 USPQ2d at 1396 quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)." (Emphases added)

Applicant would appreciate if the Examiner could articulate *some reasoning with some rational underpinning to support the **legal** conclusion of obviousness, instead, merely, stating "...examiner is able to execute the claim limitations by using a reasonable degree of force, demonstrating success."*

The Examiner will appreciate that Applicant's claim language does **not** content any limitations of amount/degree of applied forces but rather explicitly

describes the directions of forces applied against the mould by the fingertip movements, **forward** by mouse **movement actuating** and **tangentially** by **button actuating**.

The Examiner will also appreciate that a button of a conventional mouse **cannot** be **physically** actuated by a **tangential** fingertip movement **directed along** the straight **line**, which touches the upper surface of the button but does **not** cross it, because this fingertip **movement against nothing will affect nothing**.

As for the differences in the interpretations that the Examiner and Applicant are taking by using of Adler's figures and reference; the Examiner notes in the current Office Action on Page 28 *"Examiner feels Applicant is not giving weight to examiner's interpretation. As long as it is a valid and reasonable interpretation, a reference can still be applied."*

Through the years of the prosecution of the case Applicant has been submitting the annotated fragmentary illustration of Adler's Figs. 4 to demonstrate physical and kinematical relationships between Adler's cover, and a conventional mouse/button, and a user's finger, when operating the mouse by a user.

In Adler's Figure 1, *which have been noted several times in each rejection* by the Examiner, and which shows the empty cover and mouse in the explosive view, without showing in any form a user's finger, these physical and kinematical relationships **cannot** be seen by one of ordinary skill.

In the illustration submitted by Applicant, as well as in Adler's Figure 2, clearly **cannot** be seen any structure to resist the fingertip movements directed forward or tangentially by operating the mouse taught in the Adler disclosure.

Nevertheless, the Examiner continues to consider his interpretation of Adler's Figure 1 as *a valid and reasonable interpretation* of the Adler reference to apply in the rejections with the statement given in the current Office Action, on Page 28 as follows:

*"Please see Adler's Figure 1, for example, it is **clear** that the fingertip can be moved **tangentially** in the aperture to **move** the mouse and to apply a gentle force in a down forward motion to **actuate** the button. ... actually >mouse< movement could still be actuated, as well as button actuation, **without the resistive endpoint of aperture, simply** by moving in the **down forward direction.**"* (Emphases added).

The Examiner will appreciate that these kinds of differences between the Examiner's and Applicant's interpretations are to being regulated by the MPEP §2144.03 (c) relevant on this and given as follows:

*"If applicant challenges a factual assertion as not properly officially noticed or not properly based upon common knowledge, the **examiner must support the finding with adequate evidence.**"*

*"If the examiner is relying on personal knowledge to support the finding of what is known in the art, the **examiner must provide an affidavit or***

declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2).” (Emphases added)

In a view of the MPEP §2144.03 (c) Applicant would appreciate if the Examiner could ***support the finding with adequate evidence*** based upon common knowledge, and the principles of geometry, physic, kinematic, etc, and common language used in the dictionary.

Applicant would appreciate if the Examiner could provide the required **reasonable** support for the Examiner’s statement “*that the fingertip can be moved **tangentially** in the aperture to **move** the mouse >forward < ...>mouse movement< could still be actuated ... **without the resistive endpoint of aperture, simply** by moving >the fingertip< in the **down forward direction.**”*

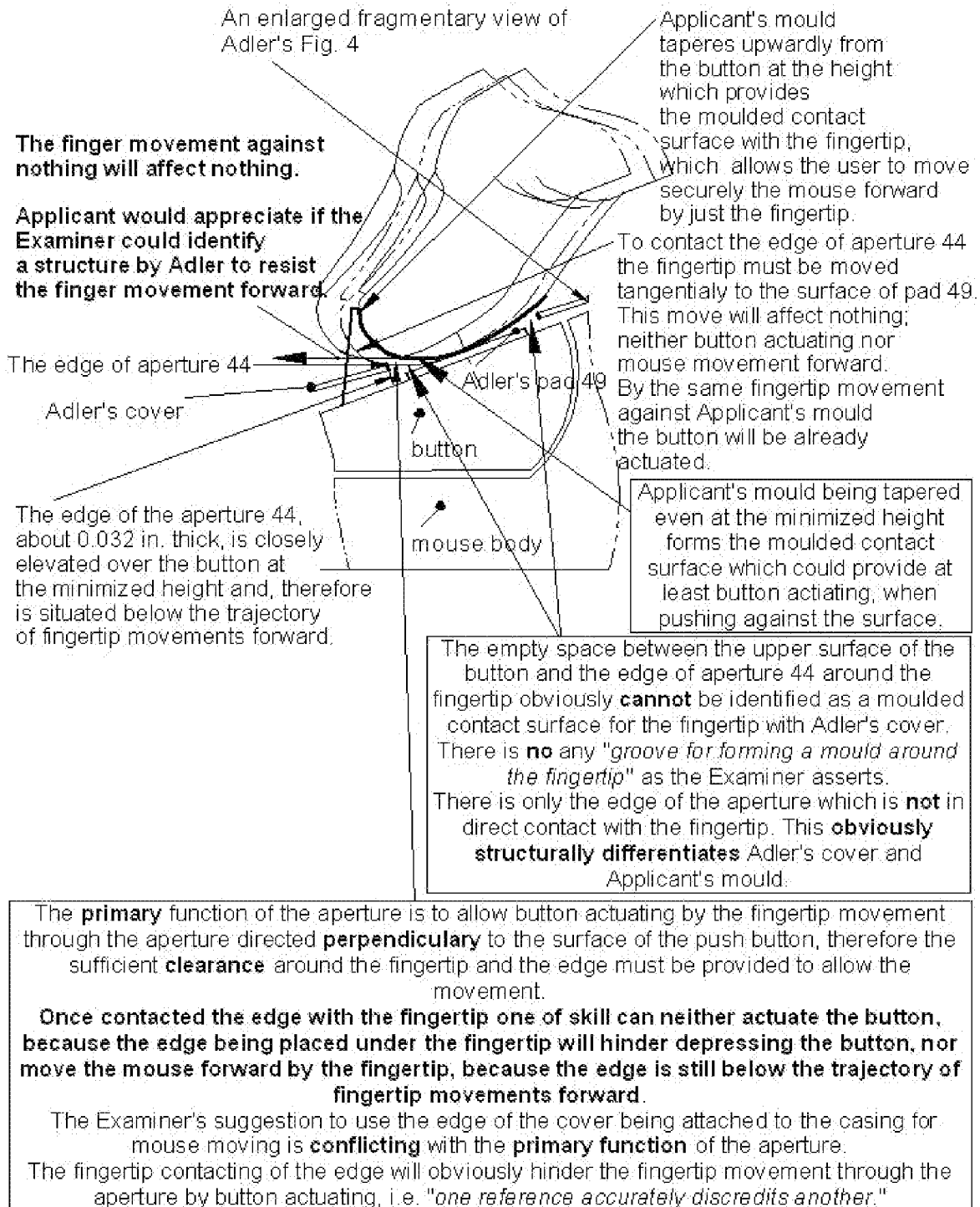
Applicant has noted the Examiner’s note given on Page 28 that “Adler’s cover/mouse tapers downwardly in the same general way that the present invention’s does.”

The Examiner will appreciate that by the **tangential** fingertip movement or ***simply by moving*** the fingertip in the **down forward direction** over Adler’s cover/button, which tapers downwardly, a force needed for mouse **forward** moving **cannot** be physically applied to the **angled forward** surface of the button/cover in order to move the mouse forward **just by the fingertip movement forward, as claimed by Applicant.**

Applicant continues to assert that claims 1, 2, and 29 were patentable over the cited Adler reference for the reason that the Adler reference does **not**

disclose, teach, suggest, or motivate any structure which could enable the user to move securely the mouse **just by the fingertip movement forward**.

To support Applicant's assertion, and **clearly** demonstrate the **structural differences** between Adler's cover and Applicant's mould, as well as, the physical and kinematical relationships between Adler's cover, and a conventional mouse/button, and a user's finger, when operating the mouse by a user, Applicant repeatedly submits below an annotated fragmentary illustration of Adler's Drawings, Figs. 4, further annotated with an inserted contour of the finger, and further annotated with an inserted contour of the Applicant's mould.



The above submitted illustration **clearly** shows that because of the small **thickness** of the edge (about 0,032 in. thick), and the **minimized height**, at which the edge is **closely** elevated over the **angled** upper surface button, and the **clearance**, which **must** be provided around the fingertip, the **edge** is **obviously** situated **below** the trajectory of the fingertip movements forward.

Thus, as one of ordinary skill could see in the above submitted illustration, there is **no** any structure to resist fingertip movements **forward** in the Adler disclosure.

In a view of the MPEP §2144.03 (c) and the above submitted illustration Applicant would appreciate if the Examiner could provide the required reasonable support for the Examiner's rejections given through the prosecution of the case and repeatedly in the current rejections on Pages 5 and 6 as follows:

*"...the apertures 44/144 ... can also be used for >mouse< movement without the use of the hand or arm and can be done **just by moving** the two **fingers** in the grooves. ... **Looking at this figure >1<** further, the fingertips, which are placed inside the apertures 44, can **move** the **mouse** in direction by applying a force, inside the groove area, and in generally a **parallel direction** to the surface on which the mouse is placed on and this includes **moving it** in a **forward** or backward direction." (Emphases added)*

When one of ordinary skill might follow the logic of the Examiner's rejections and statement given in the current Office Action, on Page 28, the fingertip can be moved in the aperture **forward** in a **parallel direction** to the

surface to **move** the mouse **forward**, and **at the same time**, *“the fingertip can be moved **tangentially** in the aperture to **move the mouse forward** >even< without the resistive endpoint of aperture, simply by moving in the **down forward direction**.”*

The Examiner will appreciate that by the **tangential** fingertip movement or *simply by moving the fingertip in the **down forward direction*** over Adler's cover/button, which tapers downwardly, a force needed for mouse moving **forward cannot** be physically applied to the **angled forward** surface of the button/cover in order to move the mouse forward **just by the fingertip movement forward, as claimed by Applicant**.

In a view of the MPEP §2144.03 (c) and the above submitted illustration Applicant would appreciate if the Examiner could identify a structure in the Adler reference and drawings, which could resist the **fingertip movements forward** in order to provide the required support for the rejections.

To move the mouse **just** by the fingertip movement forward, **as claimed by Applicant**, the Examiner **suggests** using of the edge of Adler's aperture; this is **closely** elevated above the button at the **minimized height** and **must be not** in direct **contact** with the **fingertip**.

To contact the edge of the aperture with the fingertip in order to apply the force for mouse moving forward one of skill must **first** overcome the **clearance around the fingertip and edge** by moving of their fingertip **tangentially** to the upper surface of the pad 49 in the combined down-forward motion.

Contrary to the Examiner's statement given in the current Office Action on Page 28 "... >mouse< movement could still be actuated, as well as button actuation, without the resistive endpoint of aperture, simply by moving in the down forward direction." this **tangential** fingertip movement within the **clearance**, which **must** be provided between the fingertip and the edge of the aperture, i.e. against **nothing**, will **affect nothing; neither** mouse button actuating **nor** mouse movement forward.

In contrast to Adler, by the **same tangential** fingertip movement against Applicant's mould, which is **fitted tightly** around the shape of a fingertip, the button will be **already actuated without actuating mouse movement**.

Further, once contacted the edge of the aperture with the fingertip one of skill can **neither actuate the button**, because the edge being placed under the fingertip will hinder depressing the button, **nor move the mouse forward by the fingertip**, because the edge is still **bellow** the trajectory of fingertip movements forward, as **it can be clearly seen in the above submitted illustration**.

With respect to the MPEP §2143.01 (II) the Examiner would appreciate that the intended use of the edge of the aperture for mouse moving is **conflicting** with the **primary** function of the aperture in the cover.

This means that the Examiner's suggestion to **use the edge** of the aperture in the Adler disclosure for mouse moving **seems to make the mouse inoperable** for the use because the contacting of the edge with the fingertip will hinder the finger movement through the aperture by button actuating.

In contrast to Adler's cover/aperture, Applicant's mould being **formed or attached on the button** allows **button actuating** without actuating mouse movement by a force applied **tangential** to the upper surface of the button by the fingertip, when stroking by the fingertip the upper surface of the button in the combined down-forward motion **against** the mould, and **at the same time** allows the user to **move** securely the mouse without button actuating in the **forward** direction just by **moving** of **one finger forward**.

Thus, as discussed above and shown in the submitted illustration, Adler does **not** teach, suggest, or motivate any structure, which could enable the user to **move** securely the mouse just by moving of **one** finger forward **or actuate** the button by the **tangential** fingertip movement directed along the straight line, which touches the upper surface of the button but does not cross it; therefore, the Examiner's rejections of Claims 1, 2, and 29, it is respectfully submitted, are improper.

Claims 3-25 and 27-30, which depend directly or indirectly in Claims 1 and 2 are patentable for the reasons advanced for Claims 1 and 2.

Applicant submits that the claims as presently submitted very clearly cannot be remotely disclosed, taught, or suggested in the cited Adler reference (or in combination with any other reference cited or identified by the Examiner).

For the reasons discussed herein, Applicant respectfully contends that the Examiner's rejections were improper and respectfully request that the present claims be passed to issuance.

Application No. 10/527,241
Amendment Dated: November 18, 2010
Reply to Office Action of: October 12, 2010

Respectfully Submitted,

Alexander Boldin

By: /Guy D. Yale/

Guy D. Yale
Registration No. 29,125
Alix, Yale & Ristas, LLP
Attorney for Applicant

Date: November 18, 2010
750 Main Street, Suite 1400
Hartford, CT 06103-2721
(860) 527-9211
Our Ref: BOLDIN/102/PC/US

GDY/tlc

G:\AYR saved docs\Filing Docs\Boldin\BOLDIN102PCUS\BOLDIN102PCUS_ResponseOA_11_18_10.doc